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erty, money, and incomes are voluntarily reported to the examiner of records on or before August 1, 1916, on forms prescribed by the auditor of public accounts, and a tax thereon paid before November 1st, the tax shall not be subject to interest or penalty.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 92.]

2. Taxation (§ 838*)—Omitted Taxes—Penalties and Interest.—On taxing the property of an estate of a decedent, as for omitted taxes, penalties as well as interest may be imposed.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 92, 118.]

Error to Circuit Court, New Kent County.

Motion by C. L. Harrison, as executor of the estate of Julia W. Harrison, deceased, for relief against interest and penalties upon omitted taxes assessed against the estate. From a denial of plaintiff's motion, he brings error. Affirmed.

O'Flaherty, Fulton & Byrd, of Richmond, for plaintiff in error.

O. L. Shewmake and *J. Vaughan Gary*, both of Richmond, and the *Attorney General*, for the Commonwealth.

KINCHELOE et al. v. TAYLOR et al.

June 13, 1918.

[96 S. E. 167.]

1. Vendor and Purchaser (§ 79*)—Conditional Contract.—Where the owner of a farm agreed to sell, the agreement providing it was understood by both parties that there was pending a suit covering the question of the seller's right to possession of the land, that he should deliver immediate possession as soon as the suit was settled or dismissed, at which time the sale was to be closed, the concluding clause providing that if the seller did not deliver possession he should reimburse the buyer for sums paid on account of the purchase price, the contract was conditional, effective only if plaintiff in the pending suit against the seller was divested of possession and interest in the land.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 494.]

2. Joint Adventures (§ 5*)—Contracts — Equitable Remedy.—Where a farm was purchased at the suggestion and through the efforts of the buyer's associate under parol agreement that title should be taken in the buyer's name, but that the farm should be sold, and the buyer's associate, in consideration of his services, receive half the proceeds of the sale in excess of \$8,500, the associate was within

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

his right in invoking the aid of a court of equity to protect his interests under the contract.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 87.]

3. Lis Pendens (§ 24 (1)*)—Notice of Suit—Effect.—The purchaser of a farm, pending suit against the seller, who had actual and constructive notice of the pending suit to enforce an equity in the land, took the property subject to any decree that might be rendered in the suit with respect to the farm, and the broker who negotiated the sale, also with notice, occupied no higher ground.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 458, 460.]

4. Contracts (§ 119*)—Stifling Bid—Illegality.—An agreement between a purchaser of a farm, his broker, and a third person who desired to purchase the farm, that the purchaser, if the third person would withdraw his offer to the owner to purchase, would consummate his purchase from the owner, and then sell to the third person for the price the third person offered the owner, was an agreement attempting to stifle the third person's bid, opposed to public policy and illegal.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 246.]

Appeal from Circuit Court, Fairfax County.

Suit by James M. Kincheloe, Arthur N. Meloy, and others against E. P. Taylor and others. From decrees dismissing their petitions, the named plaintiffs appeal. Affirmed.

H. W. Smith, of Alexandria, *Thos. H. Lion*, of Manassas, and *C. Keith Carlin*, of Alexandria, for appellants.

Moore, Keith, McCandlish & Hall and *C. V. Ford*, all of Fairfax, and *Geo. L. Whitford*, for appellees.

LILLARD *v.* GRAVES et al.

June 13, 1918.

[96 S. E. 169.]

1. Judicial Sales (§ 31 (2)*)—Setting Aside—Inadequacy of Price.—After judicial sale of land, the trial court may consider ex parte affidavits as against an opinion and recommendation of the commissioner that the sale be not confirmed on the ground of inadequacy of price.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 740.]

2. Judicial Sales (§ 31 (2)*)—Setting Aside—Inadequacy of Price.—The circuit court could not set aside a judicial sale on account of inadequacy of price, based alone on the opinion of the commissioner

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